

City of Burien

BURIEN PLANNING COMMISSION/HEARING EXAMINER SPECIAL MEETING

October 20, 2009
7:00 p.m.
3RD Floor Lobby, Burien City Hall
MINUTES

Planning Commission Members Present:

Joe Fitzgibbon, Brian Bennett, Janet Shull, Rebecca McInteer, Rachel Pizarro, Jim Clingan

Absent: Stacie Grage

Others Present:

Donald B. Lagen, AICP, hearing examiner; Scott Greenberg, AICP, Community Development Department director

Chair Fitzgibbon called the meeting to order at 7:00 p.m. At the call of the roll all commissioners were present except commissioners Bennett, McInteer and Grage. Commissioner Bennett arrived after roll call.

Agenda Confirmation

Motion to approve the agenda as presented was made by Commissioner Shull. Second was by Commissioner Pizarro and the motion carried unanimously.

Public Comment

None

Approval of Minutes

None

Public Hearing

Scott Greenberg, Community Development director, gave a brief explanation about the roles this evening of the Planning Commission and Don Lagen, the city's hearing examiner. By combining the hearing on the NERA Draft Supplemental Environmental Impact Statement (DSEIS) and the hearing on the proposed NERA comprehensive plan amendments, zoning map and code amendments, people wishing to testify need come to only one meeting to be heard.

Mr. Greenberg then explained his role as the City's SEPA-responsible official, the person who must sign-off on the Environmental Impact Statement when it's completed. He went on to explain the purpose of the evening's hearing and invited testimony from the public, noting that public comment is an important part of the process. He noted that written comments will be accepted until Nov. 4, as well as oral testimony tonight, and the concerns of every comment will be addressed in the Final Supplemental Environmental Impact Statement (FSEIS).

During a brief introductory presentation, Mr. Greenberg delineated the boundaries of the NERA and reviewed the work done in the past year and a half – a market analysis, an existing conditions analysis, a

draft strategy and action plan, the proposed Comprehensive Plan amendments, and the Environmental Impact Statement. He said there is still a great deal of work to be done – finalize all the draft work that’s been completed, find funding for infrastructure improvements, and promote and market the area.

Three alternatives are examined in the Environmental Impact Statement, Mr. Greenberg said. Alternative 1, the preferred alternative at this point, would create two separate zones – professional/residential and airport industrial. Airport industrial (AI) would accommodate “flex tech” uses such as warehouse and commercial office uses, with auto sales and retail uses added to certain areas of the zone. Additional residential development would not be allowed in the airport industrial zone. Mr. Greenberg noted that Burien auto dealers have indicated interest in relocating their businesses in that area to create an “auto mall.” The professional/residential (PR) zone would accommodate homes, artist studios, and small businesses, with encouragement to reuse existing homes as businesses.

He noted that staff is proposing to repeal the provision in the current law requiring a minimum two-acre parcel for any development to occur in the NERA; development then could take place on any size parcel. In the proposed PR zone, property owners would be allowed to build homes, perhaps even subdivide their property if it’s large enough, or their property could be used for small businesses. Reuse of the existing homes for businesses such as accountants and other office uses would be encouraged. Demolition of homes and the building of small office spaces would be allowed. Artist studios would be another allowed use. No new residential development would be allowed in the AI zone, because it is the area most heavily impacted by aircraft operations.

Mr. Greenberg emphasized that people living in the NERA area will not be required to move out.

Continuing, Mr. Greenberg explained that Alternative 2 is exactly the same as Alternative 1, except there would be no auto mall and any retail uses would have to be supportive of the primary uses in the area, for instance, a deli serving an office park.

Commissioner McInteer joined the meeting at 7:15 p.m.

Alternative 3 is “no action,” an alternative required by state law, Mr. Greenberg said, explaining the uses allowed under current code.

Mr. Greenberg explained the process of adopting new policies for the Comprehensive Plan – the long-range vision for the City -- and adopting some new maps and land use designations. Following adoption of the Comprehensive Plan amendments, the Zoning Code would be amended by adopting the two new zones – AI and PR – and corresponding zoning regulations.

Mr. Greenberg emphasized that comments on the DSEIS are due Nov. 4, as required by state law. Written comments on the proposed Comprehensive Plan and Zoning Code amendments will be accepted beyond that date. He also explained that, by state law, the City Council needs to complete its deliberation of the proposed Comprehensive Plan amendments by the end of December; the plan can be amended only once a year. The Final Supplemental Environmental Impact Statement, addressing comments received by Nov. 4, will be issued in early December.

Before turning the meeting back to Chair Fitzgibbon, Mr. Greenberg introduced Larry Blanchard, the City’s new public works director.

Don Largen, hearing examiner, opened the public hearing.

Lolita Khachaturova, 826 S. 146th Street, asked when the City Council would make the final decision. Mr. Greenberg answered that the council will have to adopt any Comprehensive Plan amendments by the end of the year; its last scheduled meeting of the year is on Dec. 14. She asked if it can be amended again if people don’t like it. Chair Fitzgibbon explained that the City can amend its Comprehensive Plan once a year; so it would have to wait at least a year to amend the plan again. Ms. Khachaturova said she likes Alternative 1 because the noise from airline operations is so loud at her house she cannot open the windows. She also had questions about how the proposed changes would affect the environment.

Terry Gangnes, 14040 8th Ave. S., wanted to know how sure it is that the current two-acre minimum for redevelopment will be repealed. Mr. Greenberg replied that ultimately it is a City Council decision. Mr. Gangnes then asked what the property owners do after the amendments have been accepted – wait for someone to make an offer on their property or put it up for sale? Mr. Greenberg replied that that is one possibility; he also suggested perhaps the City’s consultants could meet with the property owners as a group to talk about what the market study found and how the property owners might want to market their properties together.

Eric Stahlfeld, 145 SW 155th St., Suite 101, a Burien attorney, stated he was representing Steve Desimone, who owns property in the NERA area. He encouraged the Planning Commission to remove as many restrictions to commercial development in the area as possible. Mr. Stahlfeld stated that DSEIS Figure 2-11 is factually incorrect. He stated that he knows of at least two parcels shown in the figure as vacant/Port-owned that are not vacant or Port-owned. He said that the Port is trying to buy or condemn properties in order to consolidate its control of a large portion of land and that this is not acknowledged anywhere in the DSEIS. He said the Port has brought a condemnation action against his client’s property and several others in the area. Mr. Stahlfeld said whatever zoning is adopted, and what is said in the DSEIS, affects “the Port’s ability to take private property away from private property owners.” He urged the commissioners not to include restrictions that the Federal Aviation Administration (FAA) wants on land uses, adding that if the federal government wants to restrict use of private land then the federal government can compensate the property owners for it.

Commissioner Bennett asked if Mr. Stahlfeld or his client is in favor of one of the three options. Mr. Stahlfeld replied that his client has not taken a position on any of the options; however, he said believes he and his client would prefer the Alternative 1 because it offers the largest number of land-use options. He would like to see restaurants to serve office parks included in the list of uses. Mr. Greenberg clarified that Alternatives 1 and 2 do allow restaurants; Alternative 3 (no action) does not. Commissioner Clingan asked for the general vicinity of the properties Mr. Stahlfeld referenced in his remarks; Mr. Stahlfeld replied that they are both on Des Moines Memorial Way South, between SR-518 and South 144th Street.

Donna Ladines, 824 S 146th St., asked why property owners would want to band together if the Port would be dealing with them individually with offers to buy them out. Mr. Greenberg said the Port is not planning any buyouts at this time. He said what he was referring to is that the City could facilitate a meeting to help the property owners decide how best to market their properties to private developers by helping them understand what the City’s market analysis of the area has indicated; the City would not market the property. This is a different situation than what has happened with the Port buyout of homes.

Viktoriya Dundarov, 817 S. 146th St., asked what happens if she doesn’t want to sell her property. She said it is confusing and she doesn’t know what alternative she favors because she doesn’t know what would happen to her property under the Airport Industrial (AI) zoning. Chair Fitzgibbon assured her that she would be allowed to stay on her property. Mr. Greenberg summarized the uses that would be allowed under AI zoning, including air cargo facility or distribution, restaurant, business park, office, airport parking, retail, and auto dealer, among others. He assured her that no one is asking people to sell their property; the proposed amendments will set the ground rules for future land uses in the area. The City is not proposing to buy land; it would be a transaction between private parties.

Hearing Examiner Largen asked Mr. Greenberg if it would be fair to say the proposed changes would give greater flexibility and more potential uses of the properties than have been allowed in the past. Mr. Greenberg agreed.

Tanya Engeset, 1449 SW 152nd St., asked why anyone would shop under the third runway. She said she feels Burien has sold out to the airport. She said she wouldn’t shop for a car in that area.

Harvey Palmer, 1243 S. 136th St., asked what the FAA regulations are that might affect development in the area. Mr. Greenberg directed attention to Appendix A of the DSEIS, which lists the land uses

permitted by the FAA in the runway protection zone (RPZ) and the approach transition zone (ATZ). He clarified that the FAA land-use restrictions apply only to the properties purchased, or that will be purchased, by the Port of Seattle. The FAA restrictions do not apply to privately owned properties.

Ms. Engeset suggested that nothing in the NERA be built with flat roofs; she believes that makes the noise worse for the whole area. She'd like to see peaked roofs and lots of trees to act as sound buffers. Commissioner Bennett asked which alternative she would prefer; she stated she is against Alternative 1 because she would not shop in that area.

In answer to a question about what happens if the City Council doesn't take action on the proposed amendments by Dec. 14th, Mr. Greenberg stated that it probably would have to wait until December 2010. He said he believes this is one of the City's highest priorities, so he is fairly confident the City Council will make a decision on Dec. 14th.

In response to a question about when the proposed amendments leave the Planning Commission and go to the City Council, Chair Fitzgibbon stated that the commissioners might make a recommendation to the council at their Oct. 27th meeting. If the commissioners do not feel ready to make a recommendation at that time, their next opportunity to do so will be Nov. 10th.

Someone asked about a proposed road shown on a drawing connecting Des Moines Memorial Drive South with South 146th Street. Mr. Greenberg said the idea behind the road is to get traffic off of Des Moines Memorial Drive as quickly as possible. He said there is another proposed road, connecting South 140th Street to South 146th Street, that would operate as an internal connector. Answering a question about why the City would want to divert traffic off of Des Moines Memorial Drive, Mr. Greenberg explained that because the City of Seatac owns Des Moines Memorial Drive, the City of Burien would try to keep the Burien-related traffic internal, which would be safer and require less traffic improvements on Des Moines Memorial Drive than having a large number of cars and trucks entering and exiting from that street.

Amber Rexford, 1226 S. 140th St., asked how the new internal-connector street would affect her. She says currently there are safety hazards on her street and she is concerned about additional dangers posed by more traffic. Mr. Greenberg said that is something the City will have to look at and respond to in the Final SEIS. She said there are four spots where children have nearly been hit by cars; the hearing examiner suggested she send the City an email noting the specific spots to examine.

Ms. Dundarov commented that the commissioners should consider the people who are going to stay in the area when making their decision; not only do residents have to put up with airport noise, but they would have to endure construction noise as well. She said the only way she would move right now is if the airport purchases her property, because the airport offers relocation assistance.

There being no further questions or comments, the hearing examiner closed the public testimony portion of the hearing. Mr. Greenberg encouraged those attending to feel free to email comments to the City and they will be provided to the commissioners up until the time they make their recommendation to the City Council. He noted that all public comments received during the process will go forward to the City Council as well.

Chair Fitzgibbon closed the hearing at 8:02 p.m.

Old Business

None

New Business

None

Planning Commission Communications

None

Director's Report

Mr. Greenberg said he will not be sending out a new packet before the Oct. 27th meeting, but he will provide the commissioners with a new agenda. He advised commissioners to bring the information that was included in the Oct. 20th packet to the Oct. 27 meeting.

Adjournment

Motion to adjourn was made by Commissioner Shull. The meeting was adjourned at 8:03 p.m.

Approved: November 24, 2009

/s/ Joe Fitzgibbon, chair